IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO.8277 of 1995

Between:

1 A.Bagavanthaiah S/o. Krishnaiah
R/o Vijayamambapuram, Karvetinagar Mandal,
Chittoor Dist
2 A.Rajamma W/o. Bagavanthaiah
R/o Vijayamambapuram, Karvetinagar Mandal,
Chittoor Dist

..... PETITIONERS

AND

1 The District Collector,
Chittoor Dist.
2 The Revenue Divisional Officer
Chittoor Dist.
3 The Mandal Revenue Divisional Officer, Karvetinagaram

Mandal, Chittoor Dist.
4 K.Sarojamma, W/o.K.Kumara Swamy,
East Street, Karvetinagaram Mandal,
Chittoor Dist.
5 P. Jayaramaiah S/o P. Krishnaiah
Vijayamambapuram, Mambedu Post, Karvetinagaram Mandal,
Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction particularly a Writ of Mandamus in canceling the assignment without any notice in respect of the 1and S.No.636/2 an extent of Ac.2.27 cents in Vijayamambapuram, Karvetinagarm Mandal, Chittoor District as illegal, arbitrary and principles of natural justice and consequently direct the respondents to restore the land as per the provisions of A.P. Assigned Lands (Prohibition of Transfers/Act (Act 9 of 1977).

Counsel for the Petitioners: MR.G.DASARADHA RAMI REDDY
Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

O r d e r:

Assailing the action of respondent Nos. 1 to 3 in canceling the assignment in DKT. No. 44/4/95, under patta No. 1286 dated
10-1-1986 issued in favour of the petitioners in respect of
Ac. 2-27 cents of land in Survey No. 636/2 of Vijayamambapuram village, Karavetinagaram Mandal of Chittoor District, as illegal and arbitrary, this writ petition is filed seeking a direction to the respondents to restore the said land in favour of the petitioners as per the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977.

The petitioners state that they belong to Yanadhi community, which is a Scheduled Tribe. In the year 1986, the land in question was assigned to them by virtue of the patta in question, and since then they have been cultivating the land by raising dry crops, and eking out their livelihood. While so, the husband of respondent No.4, who is a Mechanic in Andhra Pradesh State Road Transport Corporation (APSRTC), on the pretext of arranging a loan for mango plantation in the land in question, has taken the original patta and thumb impressions on some blank papers from the petitioners. Thereafter, the petitioners left the village for some time for eking out their livelihood, and after returning to the village they came to know that respondent Nos. 4 and 5 occupied the land. On enquiries, the petitioners came to know that respondent No. 4 by managing the officials in the Revenue Department, got removed the names of the petitioners from the revenue records in respect of the land in question and got the same assigned in her name by playing fraud, and without giving any notice to the petitioners, and leased out the same to respondent No. 5. The petitioners state that respondent No. 4 is not eligible for assignment, inasmuch as her husband is working in APSRTC and drawing more than Rs. 3,000/- per month. According to the petitioners, they made several representations, which include the representations dated 08-10-1987, 25-6-1994 and 28-7-1994, requesting respondent Nos. 1 to 3 to restore the land in question in their favour as per the provisions of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977, and the District Tribal Welfare Officer also requested the officials in the Revenue Department to take appropriate action in the matter, but respondent Nos. 1 to 3 have not taken any action in the matter. Hence, the writ petition.

A counter-affidavit is filed on behalf of respondent Nos. 1 to 3 admitting that the land in question was originally assigned to petitioner No. 1 under DKT patta, dated 31-1-1986. However, it is stated that as the assignee, namely petitioner No.1 voluntarily relinquished his right over the land in question without anybody's inducement and

handed over the patta to the Mandal Revenue Officer, Karvetinagar, along with a representation stating that he is unable to raise any crops in the land, and that if raised, he is unable to protect the produce from the wild animals, as the land is situated 4 ½ k.ms., away from his place of residence, and he also gave a statement to that effect before respondent No.3-Mandal Revenue Officer, and as such, his relinquishment was accepted, and the patta was cancelled, and in pursuance thereof, the land was resumed to the Government, and the name of petitioner No.1 was deleted in 10(1) account of Karvetinagar village. Thereafter, Darakasth patta was granted for the land in question and also for an extent of Ac. 1-00 in Survey No. 661 of the village, in favour respondent No. 4 and three others. It is stated that respondent No.4 planted tender mango plants in the land by investing huge amount and leased out the same to respondent No.5, who is landless poor, and now the mango plants have become fruit-bearing trees. At present, the name of respondent No.4 is recorded in the village accounts of Karvetinagar village in respect of the land. Thus, respondents 1 to 3 pray to dismiss the writ petition.

Respondent No. 5 also filed a counter-affidavit reiterating the stand taken by respondents 1 to 3 in their counter-affidavit. It is stated that since the petitioners relinquished their rights over the land in question, the Government after canceling the patta, reassigned the same to respondent No.4, who planted tender mango plants therein, and thereafter, leased out the same to him. He thus prayed to dismiss the writ petition.

Heard the learned counsel for the petitioners, the learned Government Pleader for Revenue for the official respondents and the learned counsel for respondent No. 5.

The learned counsel for the petitioners submits that the husband of respondent No.4, who is employed with APSRTC, on the pretext of arranging a loan for raising mango garden, took the patta and signatures on blank papers, and misused the same as if to give an impression that petitioner No.1 had himself surrendered the land on his own volition with a request to cancel the patta granted in respect of the land in his favour, and after getting the patta cancelled, the husband of respondent No.4 by managing the officials in the Revenue Department, got the land in question reassigned in favour of his wife, and also got the name of petitioner No.1 deleted from the revenue records. He submits that petitioner No.1 is an illiterate and he cannot read and write and that he had not surrendered the land, and the alleged letter and statement said to have been made by him before the Mandal Revenue Officer, do not belong to him, and as such, respondent No.3 could not have cancelled the patta granted to him, and reassigned the same to respondent No. 4 and more so when the husband of respondent No.4 is employed in APSRTC, and that too without notice to him. He submitted that though petitioner No.1 made several representations to the official respondents to restore the land to him, no action had been taken thereon. Hence, he prayed that the patta granted in favour of respondent No.4 be cancelled and the patta be reassigned in his favour, more so when it was obtained by playing fraud.

The learned Government Pleader for Revenue produced the original file, and on the basis of the record and the counter filed on behalf of the respondent Nos. 1 to

3 submitted that it is only on the request made by petitioner No.1 to cancel the patta granted to him on the ground that the land is situated at a distance and that he is unable to protect the crop from wild animals, the patta was cancelled. Petitioner No.1 surrendered the land on his own violation, and there was no threat or coercion administered on him by anyone. After canceling the patta on the request of petitioner No.1, the patta was granted to respondent No.4, and accordingly, her name was incorporated in the revenue records and the name of petitioner No.1 was deleted. He denied the contention of the petitioners that the officials of the Revenue Department were managed by the husband of respondent No.4 in getting the land reassigned in the name of his wife. He, thus prayed that the writ petition be dismissed.

The learned counsel for respondent No.5 while reiterating the submissions made by the learned Government Pleader for Revenue, submitted that respondent No. 5 is the leaseholder of the land in question from respondent No.4, which was assigned to her after canceling the patta granted to petitioner No.1, which was done at his request. Inasmuch as she is in possession of the land in question as a leaseholder, and the land having been reassigned in favour of respondent No.4 in accordance with law, it cannot be cancelled, and more so when her interest is involved in the land in question.

The learned Government Pleader for Revenue produced the file relating to the cancellation of the patta granted to petitioner No.1 and reassigning thereof in favour of respondent No.4. The file contains the alleged representation, dated 15-9-1989, said to have been submitted by petitioner No.1 to the Mandal Revenue Officer, Karvetinagaram, seeking cancellation of the patta issued in his favour in respect of the land in question, on the ground that the land is at a distance of 4 ½ Kms from his place of residence, and it is very difficult for him to protect the produce from wild animals and to take the produce, all the way to his village; the alleged oral statement, said to have been given by petitioner No. 1 on
20-9-1989, before the Mandal Revenue Officer, Karvetinagaram, to the said effect. While seeking cancellation of the patta, petitioner No.1, is also alleged to have made a statement to the effect that he is seeking cancellation of the patta on his own volition and there is no threat or pressure from any quarter. The original file produced, also contains the cancelled patta of petitioner No.1 in respect of the land in question; the orders issued by Mandal Revenue Officer, Karvetinagaram for resumption of the land to the Government; and the patta in DKT No.16/4/1399, dated 2-11-1989 issued in name of respondent No.4, reassigning the said land in her favour.

The specific case of the petitioners is that petitioner No.1 is an illiterate and that the husband of respondent No. 4, who is an employee of APSRTC, on the pretext of arranging a loan for mango plantation in the land in question, had taken the patta in respect of the land in question granted in favour of petitioner No.1, and by obtaining his signature on blank papers, misused the same, and by managing the officials in the Revenue Department, got the patta cancelled, and got reassigned the

said land in the name of his wife, namely respondent No.4, by playing fraud. And that though petitioner No.1 made several representations to the official respondents to take appropriate action and restore the land, no action had been taken thereon.

Petitioner No.1, it is stated, is an illiterate, unable to read and write, and this is apparent from the alleged representation, said to have been made by him to the Mandal Revenue Officer, Karvetinagaram, requesting to cancel the patta granted in his favour, as it contains his left hand thumb impression. The contents of the alleged representation are in Telugu. As petitioner No.1 cannot read and write, obviously the alleged representation, basing on which the patta granted to him was cancelled, was written by a person, who is other than petitioner No.1. A perusal of the alleged representation, would reveal that there is not much gap left between each line in respect of the initial portion of the matter written therein, while in respect of the later portion of the matter, there is a wide gap left in between each line. The manner in which the representation is drafted – in that leaving narrow and wide gaps in between the lines of the initial and later portion of the representation, gives a strong indication that the contents of the representation came to be filled in, on a blank paper containing the left hand thumb impression of petitioner No.1, as alleged by him. A reading of alleged representation, further reveals that it has been drafted cleverly and conveniently as if to appear that petitioner No.1 has himself intended to surrender the land voluntarily and made a request for cancellation of the patta on his own volition to the Mandal Revenue Officer, without there being any threat or coercion from any quarter made on him. When petitioner No.1 contends that he had never made representation for surrender and cancellation of patta for the land in question, and that the husband of respondent No.4 had taken the patta and left hand thumb impression on blank papers, and misused them by drafting a representation therein as if to give an impression that petitioner No.1 had intended to surrender the land voluntarily on his own volition without there being any threat or coercion on him, it was for respondent No. 4, who is reassignee of the land in question, and against whose husband allegations of fraud are alleged, to rebut the same, by filing counter affidavit, but respondent No.4 leave alone filing counter has not even entered her appearance.

Be that as it may, though petitioner No.1 is said to have made several representations, including on 08-10-1987, 25-6-1994 and
28-7-1994, one of which is even before the patta was reassigned to respondent No.4, requesting the official respondents to restore the land in question to him, it is required to notice that in spite of there being directions from District Tribal Welfare Officer to take appropriate action in the matter, the official respondents failed to take any action. When representations are made by aggrieved individuals against the actions of the authorities, under law, a duty is cast on them to consider and dispose of such representations, and they cannot keep them pending without taking any decision thereon. The counter filed on behalf of the official respondents, neither refers to the aforesaid representations nor the action, if any, taken thereon. The inaction of the official respondents in taking appropriate action on the representations, submitted by the petitioners, has made them file this writ petition.

By this writ petition, the petitioners, it is required to notice, are seeking

cancellation of patta granted to respondent No.4 which was reassigned to her after canceling the patta granted to petitioner No.1, and in effect, they are seeking restoration of the land in question, which was assigned to petitioner No.1, and which on the basis of an alleged representation and statement said to have been made by petitioner No. 1 before the Mandal Revenue Officer, Karvetinagar, relinquishing his right over the land in question and surrendering the same to the Government, was cancelled and reassigned to respondent No.4. Though pursuant to the cancellation, it is stated that respondent No.4, was reassigned the land in question, as noticed supra, in spite of being served with the notice of the writ petition, she did not enter her appearance to deny the allegations of fraud and managing the officials in the Revenue Department, in getting the land reassigned in her favour by misusing the blank papers on which her husband is stated to have obtained left hand thumb impressions of petitioner No.1 on the pretext of getting a loan for raising mango plantation. In the absence of any denial by respondent No.4 of the allegations made in the writ petition, the averments made in the writ petition, can be presumed to be true.

Though respondent Nos. 1 to 3 tried to uphold their action of canceling the patta and reassigning the same in favour of respondent No.4, I fail to understand how the official respondents can seek to protect the interest of respondent No. 5, who is a lessee of respondent No.4, and who also filed a counter-affidavit, which admittedly seeks to justify the action of the official respondents in reassigning the land in favour of respondent No.4, from whom he claims to have acquired leasehold rights in respect of the land in question. The counter of the official respondents should justify their action, but a reading of the counter filed on their behalf, would make it clear that the official respondents are over-enthusiastic in supporting the case of respondent No. 5, who is merely a lessee of respondent No.4, who had chosen to remain *ex parte*. A reading of the counter of respondent No.5, would disclose that it seeks to protect the interest of respondent No.4. Respondent No.5, being merely a lessee of respondent No.4, has a limited interest in the land in question, namely to the extent of his leasehold rights over the land in question, and by filing counter, he cannot seek to defend the assignment made in favour of respondent No. 4.

The counters filed by the official respondents and respondent No.5, which seek to justify the reassignment of patta in favour of respondent No.4, who is not before the Court, would not be of any avail to disprove the allegations made by the petitioners in the writ petition. This apart, respondent No. 3, could not have granted the patta in favour of respondent No. 4, and more so when it is alleged that she is not a landless poor and that her husband is gainfully employed with APSRTC, drawing a monthly salary of more than Rs.3,000/-.

In view of the above observations, the writ petition is liable to be allowed, and it is accordingly allowed. As a result thereof, the patta granted to respondent No.4 shall stand cancelled. The official respondents, especially respondent No.3 is directed to issue patta in favour of petitioner No.1 and evict respondent No.5 from the land in question, who claims to have acquired leasehold rights from respondent No.4. No costs.

N.V. RAMANA, J

Date:19-11-2004

KSR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Nineteenth day of November, Two Thousand and Four.

To

1 The District Collector,
Chittoor Dist.
2 The Revenue Divisional Officer
Chittoor Dist.
3 The Mandal Revenue Divisional Officer, Karvetinagaram

Mandal, Chittoor Dist.
4 Two CCs to GP for Revenue, High Court of AP, Hyderabad (OUT)

5 Two CD copies.